

6210

DECISION



J. Cunningham
Page 1
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548**

FILE: B-191654

DATE: April 27, 1978

MATTER OF: Aqua-Chem Inc.

DIGEST:

1. Possibility of Federal loan guaranty for Virgin Islands' loan financing questioned procurement does not mean that appropriated funds will ever be committed to project involved since guaranty, if made, only comes into effect on loan default.
2. Since Virgin Islands is not financing construction of desalting plants in question with appropriated funds or Federal grant funds, questioned procurement is not subject to GAO review.

A telegram has been received from Aqua-Chem Inc., objecting to the decision of the Virgin Islands Water and Power Authority, St. Thomas, Virgin Islands, to "ignore the illegality of [a] procurement" for three seawater desalting plants. The illegality, in Aqua-Chem's view, relates to the low bids' failures to comply with the provisions of the Buy-American Act, 41 U.S.C. § 10 (1970).

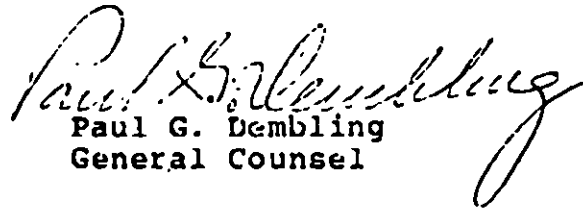
As to the funds involved in the construction of the plants, Aqua-Chem states that the "U.S. Department of the Interior * * * has been asked to guarantee the Virgin Islands credit to finance these desalting plants." It is also our understanding from the Department of the Interior that no appropriated funds are involved in the construction of the plants.

The possibility of a Federal loan guaranty for the Virgin Islands' financing for the plants does not mean appropriated funds will ever be committed for the desalting plants since the guaranty, if made, only comes into effect on loan default which is not even suggested here. Since the Virgin Islands is not financing the

B-191654

construction of the plants with appropriated funds or Federal grant funds, our Office will not consider Aqua-Chem's submission as a protest under our Bid Protest Procedures (4 C.F.R. § 20 (1977)) or as a complaint under our Public Notice (40 Fed. Reg. 42406 (1975)) concerning review of contracts awarded under Federal grants. See Fortec Constructors-Reconsideration, 57 Comp. Gen. _____, B-188770, February 24, 1978, 78-1 CPD 153; Chambers Builders Corporation, B-184932, October 8, 1975, 75-2 CPD 213.

Accordingly, the matter is dismissed.


Paul G. Dembling
General Counsel